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**NOV 05 2009**

**OFFICE OF PETITIONS**

In re Application of	:	
Tetsuya NOGUCHI et al.	:	
Application No. 09/818,802	:	DECISION ON PETITION
Filed: March 27, 2001	:	
Attorney Docket No. JP920000026US1	:	

This is a decision on the petition under 37 CFR 1.183 filed May 26, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This application was held abandoned for failure to reply to the Notice of Non-Compliant Amendment mailed June 30, 2008, which set a one (1) month shortened statutory period for reply. A Notice of Abandonment was mailed on July 31, 2008.

Petitioner asserts that the Office action dated June 30, 2008 was not received.

MPEP 711.03(c)(I)(A) states, with emphasis added,

[A]n allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action.....

*See* MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an “unintentionally” abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was “unavoidable.” This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An “unintentional” petition under 37 CFR 1.137(b) must be accompanied by the \$1,620.00 petition fee.

Further correspondence with respect to this matter should be addressed as follows:

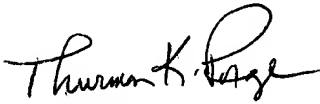
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Telephone inquiries concerning this decision should be directed to Michelle R. Eason at (571) 272-4231.

A handwritten signature in black ink, appearing to read "Thurman K. Page". The signature is fluid and cursive, with a large initial 'T' and 'P'.

Thurman K. Page  
Petitions Examiner  
Office of Petitions